
HOUSE BILL No. 1507

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-20-18; IC 26-1-7-301.

Synopsis: Liability of shipper for overweight vehicles. Limits the liability of a shipper for weight limit violations unless the shipper is also the carrier of the load or has contractually agreed to accept liability for weight violations.

Effective: July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Roads and Transportation.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1507

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-20-18-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) **Subject to**
3 **subsection (g)**, a court shall determine the extent of liability of the
4 driver, carrier, shipper, or other party shown to be criminally liable.
5 (b) It is a defense if a party can show that the party:
6 (1) could not reasonably have known the actual weight of the load
7 involved; or
8 (2) had no access to or control of the loading of an overweighted
9 load.
10 (c) If a person who is an owner, a driver, a carrier or a shipper
11 specifically or directly orders or assigns a particular shipment to be
12 loaded:
13 (1) the person shall be considered to have had control of the
14 loading within the meaning of this section; and
15 (2) a showing of knowledge of the overweighted load affixes
16 criminal liability to the person.
17 (d) The person who has loaded a shipment has control of the loading



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within the meaning of this section and a showing of knowledge of the overweighted load affixes criminal liability to the person if the person is self-employed. If the person loading a shipment is not self-employed, then criminal liability affixes to the person's employer jointly and severally with the driver of an overweight vehicle.

(e) If a court determines that the owner of a vehicle or combination of vehicles involved in a case is jointly or severally liable, the owner shall be given ninety (90) days to pay the liability assessed by the court. During the ninety (90) days the court may continue the impounding of the equipment until all fines and costs are paid. If the fines and costs are not paid within the ninety (90) days after the court determination, the court may order the property sold to pay the fines and costs.

(f) The court shall determine the liabilities, rights, and remedies of all of the parties involved.

(g) This section does not apply to a shipper unless:

(1) the shipper is also the carrier of the load; or

(2) the terms of a contract between the shipper and the carrier provide otherwise.

SECTION 2. IC 9-20-18-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) Except as provided in subsection (b), a person who violates this article commits a Class C infraction.

(b) A violation of a weight limitation in IC 9-20-4, IC 9-20-5, IC 9-20-11, or IC 9-20-7-1 is:

(1) a Class B infraction if the total of all excesses of weight under those limitations is more than five thousand (5,000) pounds but not more than ten thousand (10,000) pounds; and

(2) a Class A infraction if the total of all excesses of weight under those limitations is more than ten thousand (10,000) pounds.

(c) This subsection does not apply to violations that occur on an interstate highway. It is a defense to a charge of violating a weight limitation in IC 9-20-4, IC 9-20-5, or IC 9-20-11 that the total of all excesses of weight under those limitations is less than one thousand (1,000) pounds.

(d) The court may suspend the registration of a vehicle used in violating this article for not more than ninety (90) days.

(e) Upon the conviction of a person for a violation of a law regarding the weight limit of vehicles operated upon a highway, the court may recommend suspension of the person's current chauffeur's license if the violation was committed knowingly.

(f) Notwithstanding IC 34-28-5-4, funds collected as judgments, except for costs, for violations under subsection (a) or (b) shall be

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deposited in the state highway fund.

(g) A shipper is not civilly liable for violating a weight limitation in IC 9-20-4, IC 9-20-5, IC 9-20-11, or IC 9-20-7-1 unless:

(1) the shipper is also the carrier of the load; or

(2) the terms of a contract between the shipper and the carrier provide otherwise.

SECTION 3. IC 26-1-7-301, AS AMENDED BY P.L.143-2007, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 301. (a) A consignee of a nonnegotiable bill of lading that has given value in good faith, or a holder to which a negotiable bill has been duly negotiated, relying upon the description of the goods in the bill or upon the date shown in the bill, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the bill indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, such as in a case in which the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count" or words of similar import, if that indication is true.

(b) If goods are loaded by the issuer of a bill of lading:

(1) the issuer shall count the packages of goods if shipped in packages and ascertain the kind and quantity if shipped in bulk; and

(2) words such as "shipper's weight, load, and count" or words of similar import indicating that the description was made by the shipper are ineffective except as to goods concealed in packages.

(c) If bulk goods are loaded by a shipper that makes available to the issuer of a bill of lading adequate facilities for weighing the goods, the issuer shall ascertain the kind and quantity within a reasonable time after receiving the shipper's request in a record to do so. In that case, "shipper's weight" or words of similar import are ineffective.

(d) The issuer of a bill of lading, by including in the bill the words "shipper's weight, load, and count" or words of similar import indicate that the goods were loaded by the shipper, and if the statement is true, the issuer is not liable for damages caused by the improper loading. However, omission of such words does not imply liability for damages caused by improper loading. **Liability imposed on a shipper under this subsection does not include liability for violations of IC 9-20 unless:**

(1) the shipper is also the issuer of the bill of lading; or

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1 **(2) the terms of a contract between the shipper and the issuer**
2 **of the bill of lading provide otherwise.**

3 (e) A shipper guarantees to an issuer the accuracy at the time of
4 shipment of the description, marks, labels, number, kind, quantity,
5 condition, and weight, as furnished by the shipper, and the shipper
6 shall indemnify the issuer against damage caused by inaccuracies in
7 those particulars. This right of indemnity does not limit the issuer's
8 responsibility or liability under the contract of carriage to any person
9 other than the shipper.

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